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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,033	07/11/2003	Yaron Keidar	50572/AW/W112	4112

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EXAMINER
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NEAL, TIMOTHY J

ART UNIT	PAPER NUMBER
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3731

DATE MAILED: 08/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/618,033

Applicant(s)

KEIDAR, YARON

Examiner

Timothy J. Neal

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 20-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>see next page</u> . | 6) <input type="checkbox"/> Other: _____  |

Information Disclosure Statements Date:

9/30/2005

4/19/2004

7/11/2003

TJN

### **DETAILED ACTION**

Applicant's election of Invention I in the reply filed on 7/27/2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 1-19 are drawn at the current election of Invention I and are evaluated on the merits below. Claims 20-22 are drawn to a non-elected invention and are not evaluated on the merits.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-19** are rejected under 35 U.S.C. 103(a) as being unpatentable over Selmon et al. (U.S. 6,217,549) in view of Czernecki et al. (U.S. 2005/0222599) and Devos et al. (U.S. 6,099,511).

Selmon et al. discloses:

Regarding **claim 1**, a device comprising: an elongated tubular body having an axis, a proximal end, a distal end and a lumen longitudinally extending therethrough (Fig. 3); and comprising a segmented surface that is generally transverse to the axis of the tubular body (Fig. 4), and a generally rigid tube extending distally from the segmented surface and having a sharp distal end (Fig. 14A-D); wherein distal movement of the tubular body relative to the dilating tip exerts a force on the segmented surface to thereby open the segmented surface (Column 23, Lines 7-9).

Regarding **claim 2**, wherein the elongated tube is generally cylindrical (Fig. 9).

Regarding **claim 3**, where the segmented surface comprises two or more segments (Fig. 4).

Regarding **claim 4**, where the segmented surface comprises three or more segments (Fig. 4).

Regarding **claim 5**, wherein the dilating tip further comprises a ring mounted in surrounding relating to the tubular body (Fig. 11A).

Regarding **claim 6**, wherein the segmented surface comprises a plurality of segments, each of which is hingedly attached to the ring (Fig. 11A).

Regarding **claim 7**, wherein the dilating tip is generally funnel-shaped (Fig. 5 Item 42).

Regarding **claim 8**, wherein the tube is segmented (Fig. 4).

Regarding **claims 9-12**, wherein the tube has a length ranging from about 2 mm to about 6 mm or 3 mm to 5 mm and wherein the tube has an outer diameter ranging from about 0.6 mm to 1 mm or 0.7 mm to 0.8 mm (Column 14 Lines 44-54).

Regarding **claim 13**, wherein the dilating tip comprises nitinol (Column 15 Line 14).

Regarding **claim 14**, further comprising a wire extending proximally from the dilating tip to near the proximal end of the tubular body to affect proximal movement of the dilating tip relative to the tubular body (Fig. 5).

Regarding **claim 15**, further comprising a slidable member on the proximal end of the tubular body, the slidable member being connected to the wire so that proximal movement of the slidable member pulls the wire and causes proximal movement of the dilating tip relative to the tubular body (Fig. 5).

Regarding **claim 16**, a latch for maintaining the position of the slidable member relative to the tubular body when the dilating tip is in an open arrangement (Fig. 6).

Selmon et al. discloses the invention substantially as claimed as stated above. Further regarding **claim 1**, Selmon et al. does not disclose a slidably mounted tip on the distal end of the tubular body. Czernecki et al. teaches a slidably mounted tip on the distal end of a tubular body (Fig. 1 Item 8 and Abstract). Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Selmon's tubular body to include Czernecki's slidably mounted tip. Such a modification would be to provide variability in the depth of the puncture.

Regarding **claim 17**, Selmon et al. and Czernecki et al. disclose the apparatus discussed above. Selmon et al. and Czernecki et al. do not disclose a pressure valve at or near the proximal end of the tubular body. Devos et al. teaches a pressure valve at

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or near the proximal end of the tubular body (Fig. 1 Item 30). Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Selmon and Czernecki's apparatus to include Devos's pressure valve. Such a modification would be to measure different pressures in a catheterized heart.

Regarding **claims 18 and 19**, the rejections stated above for the prior 17 claims incorporate the elements of claims 18 and 19; therefore, claims 18 and 19 are also rejected by the prior art as stated above.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy J. Neal whose telephone number is (571) 272-0625. The examiner can normally be reached on M-F 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan Nguyen can be reached on (571) 272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TJN

  
**ANH TUANT. NGUYEN**  
**SUPERVISORY PATENT EXAMINER**

*8/7/06.*